

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOHN LORENZ,

Petitioner,

-against-

MEMORANDUM & ORDER
07-CV-4100(JS)

UNITED STATES OF AMERICA,

Respondent.

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APPEARANCES:

For Petitioner: Gregory J. Naclerio, Esq.
Ruskin Moscou Faltischek
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1425 Reckson Plaza
Uniondale, NY 11556-1425

For Respondent: Jim Miskiewicz, Esq.
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610 Federal Plaza
Central Islip, NY 11722-4454

SEYBERT, District Judge:

On April 14, 2008, this Court denied Petitioner John Lorenz's Petition to vacate and correct his custodial sentence pursuant to 28 U.S.C. § 2255 (the "April Order"). Petitioner now requests that this Court issue a certificate of appealability.

In the April Order, this Court noted that Petitioner failed to raise his claims on appeal, and therefore could not substitute a motion to vacate for a direct appeal. The Court further noted that, even if Petitioner had not waived his arguments by failing to appeal, the Court still would have rejected the petition as meritless because Petitioner's sentence was not disproportionate to his crime. As noted in the April Order,

Petitioner knowingly participated in a bank fraud that caused more than one victim over 60 million dollars in damages, and Petitioner's crime had a recommended sentence beginning at 57 months, well above the eighteen months of custody that the Court ultimately sentenced.

Because petitioner has not "made a substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), the Court declines to issue a certificate of appealability. See Lucidore v. New York State Div. of Parole, 209 F.3d 107, 112 (2d Cir. 2000).

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York
July 21, 2008